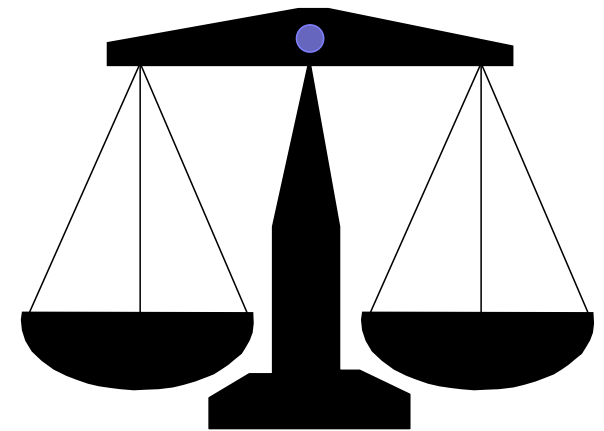


Complaint Resolution Procedures for Special Education



This pamphlet has been prepared for persons who may wish to make a complaint regarding violations of special education regulations. It explains the procedures for filing a complaint.

**Virginia Department of Education
Division of Special Education
and Student Services
Office of Dispute Resolution and
Administrative Services**

*Virginia Department of Education
Division of Special Education and Student Services
Office of Dispute Resolution and Administrative Services
P. O. Box 2120
Richmond, Virginia 23218-2120*

The Virginia Department of Education does not unlawfully discriminate on the basis of sex, race, color, religion, disabilities, or national origin in employment or in its educational programs and activities.

What is the Effect of the Determination Made After a Complaint Investigation?

The findings from a complaint can help a school division in the proper implementation of special education regulations. The Virginia Department of Education reviews the implementation of corrective action plans as a part of its monitoring procedures.

What the Complaint System is Not Able to Do.

The state's complaint resolution system for special education does not handle allegations of violations of Civil Rights related to disability, except for allegations related to disability harassment of a student with a disability receiving special education and related services. Civil Rights matters are addressed directly to the Office for Civil Rights in the United States Department of Education. In addition, the complaint system cannot address personnel issues or general education matters. These matters are under the local control of the school system. Any matter which is exclusively under local control will not be handled in the special education complaint system. Local school divisions are responsible for the general day-to-day operation of schools, including supervision of personnel and the administration of programs.

A specific complaint form is not necessary but may be used if desired. Copies of forms and of the special education complaint resolution procedures are available on VDOE's website or at:

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P. O. Box 2120
Richmond, Virginia 23218-2120

OFFICE: (804) 225-2013
FAX: (804) 786-8520
VDOE TOLL FREE: (800) 422-1098 (also for TDD)
LOCAL TDD: (804) 371-0655
<http://www.pen.k12.va.us/VDOE/dueproc/>

What Is a Complaint?

A complaint is generally an expression of some disagreement with a procedure or a process regarding special education programs, procedures or services.

Individuals are encouraged to direct their concerns to the local school division. However, a formal complaint is considered a request that the Virginia Department of Education (VDOE) investigate an alleged violation of a right of a parent and/or child with a disability who is eligible or believed to be eligible for certain services based on federal and state laws and regulations governing special education.

The complaint must address an action that occurred not more than one year prior to the date the complaint is received, unless the VDOE determines that a longer period is reasonable because the violation is continuing, or the complainant is requesting compensatory services for a violation that occurred not more than three years prior to the date the complaint is received by the VDOE.

How Can I File a Complaint?

A formal complaint must be in writing, and must be signed by the organization or individual filing the complaint.

- It must contain a statement that a local school division has violated the Individuals with Disabilities Education Act (IDEA), its regulations, or special education regulations in Virginia.
- It must contain a statement of the facts on which the complaint is based.
- It may include any documentation that the complainant wishes to be considered in an investigation of the allegations.
- It must be submitted to:

Virginia Department of Education
Division of Special Education and Student Services
Office of Dispute Resolution and Administrative Services
P.O. Box 2120, Richmond, VA 23218-2120.

How Is a Complaint Resolved?

1. The most desirable method to resolve a complaint is for the complainant and the school division to work together to come to an understanding of mutual concerns and come to an agreement in the best interest of the student with a disability, prior to filing formal complaint.
2. If a formal complaint is filed with the VDOE, a ten (10) day period is allowed for the parties to resolve their differences before an investigation begins. This ten day period is referred to as an Early Resolution Period. A signed resolution statement is submitted to the VDOE to show that the matter is resolved. Mediation is also available at no cost to parties, to assist in resolving the complaint.
3. During the investigation period, the Office of Dispute Resolution and Administrative Services determines which laws, regulations, and procedures govern a particular allegation. Statements and supportive documentation submitted by all parties are carefully reviewed. Procedures and practices related to the alleged violations are examined. If necessary, an on-site visit is made to the school division. At the conclusion of the investigation, the VDOE determines if there are areas of noncompliance with law or regulation.
4. Unless a complaint is resolved early, the final disposition of a complaint is made in the form of a "Letter of Findings." This letter is issued to the school division and to the parent.

How Long Does it Take to Render a Decision on a Complaint?

Federal and state laws and regulations require that a determination be made on a complaint within 60 calendar days. For this reason, the parties are asked to work cooperatively to resolve their differences and/or to submit necessary documentation promptly.

What Happens If There Are Areas of Noncompliance?

The VDOE is required to seek necessary corrective action for areas where noncompliances are identified. The VDOE

requests that the local school division submit a corrective action plan (CAP). In some instances, the VDOE identifies specific areas that must be corrected and the method for the correction relative to the student and/or on behalf of services for all children with disabilities.

What If I Disagree with the Complaint Findings?

Either the complainant or the local school division may appeal the findings or corrective action plan to an independent reviewer appointed by the Board of Education to serve for a term of one year. The request for appeal shall be filed in writing with the VDOE within 30 calendar days of the date VDOE issues the findings.

The date for the appeal deadline is stated in VDOE's findings. The request for appeal, along with submitted documentation, must be sent simultaneously to the non-appealing party and the VDOE. The request for appeal must be made on the basis of: (a) newly discovered information, or (b) an error in fact or law on which the findings were based. The non-appealing party may file a written response to the reviewer within 5 business days of the date the parties receive the notice of appeal from VDOE. The notice will include the expected date for issuance of review findings, and VDOE's action to set aside any requested corrective action plan until the conclusion of the hearing. The reviewer will complete the review and issue written findings within 30 calendar days from the date of the appointment. The reviewer has the authority to revise the CAP and the reviewer's findings are considered final.

Who Can I Contact for Additional Information?

1. The special education director of the school division in your local area.
2. The local area Parent Resource Center.
3. The Office of Dispute Resolution and Administrative Services, Division of Special Education and Student Services, Virginia Department of Education.
4. Virginia Office for Protection and Advocacy.
5. The local area Center for Independent Living.
6. Parent Education Advocacy Center.